IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10001 OF 2004

President/Secretary,
Suvidya Prasarak Sangh & ors. ... Petitioners

V/s

Shri Sanjay Digambar Kapadnis & ors. ... Respondents

Mr. Atul G. Damle for the petitioners.

Mr. A.B. Shah for the respondent No.1.

Mr. M.H. Solkar, A.G.P. for the State.

CORAM: P.V. KAKADE, J.

DATED: 20TH APRIL, 2006

P.C.:

1. The petitioner institute has impugned the order passed by the School Tribunal, Mumbai, dated 2.7.2004 whereby the Appeal No. 17 of 2001 under Sec. 9 of the Maharashtra Employees Private Schools (Conditions of Service) Regulation Act, 1977 and Rules 1981 was allowed. The appellant who is respondent No.1 herein had filed the appeal challenging the order of demand of grant w.e.f. October 2000 which is liable to be quashed and set aside and the prayer that the appellant be

reinstated to his original post from the date of reducing the rank with back wages and all other consequential benefits.

2. It appears from the record that the Presiding Officer decided the appeal only on the basis of parawise remarks submitted by the management and the parties were not properly heard on the issues involved. This is quite evident from the body of the judgement itself.

3. It is quite apparent that the Tribunal had considered the question whether the appellant was entitled to be reinstated to his original post as full time Assistant Teacher from the date of reduction in grant of order and to pay the differences and other consequential benefits and the Tribunal has raised this issue and answered it in affirmative, however, the question relates as to the legal status of the respondent No.1 during the period of three years 2000 to 2003 and consequential benefits which aspect has not at all been taken into account by the Presiding Officer. Under the circumstances, both the parties agreed that the matter needs to be re-addressed to the Tribunal for the purpose of adjudicating upon the said issue.

4. Hence, the Rule is made absolute. The order dated 2.7.2004 is hereby set aside.

The matter is remanded back to the Presiding Officer for adjudication afresh after giving opportunity to all the concerned parties to be heard on merits.

The matter to be disposed of on merits by the Tribunal within a period of six months from the date of this order.

With these directions, the petition stands disposed of with no order as to costs.

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